

**POSSIBLE AMENDMENTS TO
MINNESOTA RULES PARTS 4410.7000 TO 4410.7500
DRAFT
OCTOBER 14, 2002**

4410.0200. DEFINITIONS AND ABBREVIATIONS.

Subp. 38. **High voltage transmission line.** “High voltage transmission line” has the meaning given in part ~~4400.0200~~ 4410.7610.

Subp. 41. **Large electric power generating plant.** “Large electric power generating plant” has the meaning given in ~~4400.0200~~ 4410.7610.

4410.4300. MANDATORY EAW CATEGORIES.

Subp. 3. **Electric generating facilities.** For construction of an electric power generating plant and associated facilities designed for and capable of operating at a capacity of between 25 megawatts and 50 megawatts, or more, the EQB shall be the RGU. For electric power generating plants and associated facilities designed for and capable of operating at a capacity of 50 megawatts or more, environmental review shall be conducted in accordance with the requirements of parts 4410.7600 to 4410.7690 and chapter 4400.

Subp. 6. **Transmission lines.** For construction of a transmission line at a new location with a nominal capacity of between 70 kilovolts and 100 kilovolts or more with 20 or more miles of its length in Minnesota, the EQB shall be the RGU. For transmission lines and associated facilities designed for and capable of operating at a nominal voltage of 100 kilovolts or more, environmental review shall be conducted in accordance with the requirements of parts 4410.7600 to 4410.7690 and chapter 4400.

4410.4400. MANDATORY EIS CATEGORIES.

Subp. 3. **Electric generating facilities.** For construction of a large electric power generating plant, environmental review shall be conducted in accordance with the requirements of parts 4410.7600 to 4410.7690 and chapter 4400. ~~pursuant to part 4410.7000, the EQB shall be the RGU.~~

Subp. 6. **Transmission lines.** For construction of a high voltage transmission line, environmental review shall be conducted in accordance with the requirements of parts 4410.7600 to 4410.7690 and chapter 4400. ~~pursuant to part 4410.7400, the EQB shall be the RGU.~~

SPECIAL RULES FOR CERTAIN ELECTRIC POWER GENERATING PLANTS AND HIGH VOLTAGE TRANSMISSION LINES

4410.7600. APPLICABILITY AND SCOPE

Subpart. 1. **Applicability.** Minnesota Rules part 4410.7600 to 4410.7690 apply to any high voltage transmission line project or large electric power generating plant project for which a certificate of need or other need determination is required by the Public Utilities Commission under applicable law.

Subp. 2. **Scope.** Minnesota Rules part 4410.7600 to 4410.7690 establish the requirements for the conduct of environmental review of proposed projects before the Public Utilities Commission for consideration of need. No other environmental review shall be required at the need stage for high voltage transmission lines and large electric power generating plants. Additional review at the EQB permitting stage will be required under Minnesota Rules chapter 4400.

4410.7610. DEFINITIONS

Subpart 1. **Scope.** For the purposes of parts 4410.7600 to 4410.7690, the following terms and abbreviations have the meanings given them.

Subp. 2. **Chair.** “Chair” means the person who is the chair of the Environmental Quality Board.

Subp. 3. **Environmental assessment.** “Environmental assessment” means a written document that describes the human and environmental impacts of a proposed large electric power generating plant or high voltage transmission line and alternatives to the project and methods to mitigate anticipated adverse impacts.

Subp. 4. **High voltage transmission line or HVTL.** “High voltage transmission line” or “HVTL” means a conductor of electric energy and associated facilities designed for and capable of operating at a nominal voltage of 100 kilovolts or more either immediately or without significant modification. Associated facilities shall include, but not be limited to, insulators, towers, substations, and terminals.

Subp. 5. **Large electric power generating plant or LEPGP.** “Large electric power generating plant” or “LEPGP” means electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50 megawatts or more.

Subp. 6. **Mail.** “Mail” means either the United States mail or electronic mail by e-mail.

Subp.7. **Public Utilities Commission or PUC.** “Public Utilities Commission” or “PUC” means the Minnesota Public Utilities Commission .

4410.7620. ENVIRONMENTAL REVIEW AT CERTIFICATE OF NEED STAGE.

Subpart 1. **Environmental assessment required.** The Environmental Quality Board shall prepare an environmental assessment on a proposed high voltage transmission line or a proposed large electric power generating plant at the certificate of need stage. The environmental assessment shall contain information on the human and environmental impacts of the proposed project associated with the size, type, and timing of the project, system configurations, and voltage. The environmental assessment shall also contain information on alternatives to the proposed project and shall address mitigating measures for anticipated adverse impacts. The EQB shall be responsible for the completeness and accuracy of all information in the environmental assessment.

Subp. 2. **Certificate of need application.** Any person who submits an application to the Public Utilities Commission for a certificate of need for a LEPGP or a HVTL pursuant to Minnesota Statutes § 216B.243 shall at the same time submit a copy of the application and all accompanying materials required by the PUC to the EQB.

Subp. 3. **Transmission planning report.** Any person who submits a transmission planning report to the Public Utilities Commission with a request for certification of a high voltage transmission line pursuant to Minnesota Statutes § 216B.2425 shall at the same time submit a copy of the report and all accompanying materials required by the PUC to the EQB.

4410.7630. PROCESS FOR PREPARATION OF ENVIRONMENTAL ASSESSMENT.

Subpart 1. **Public meeting.** The Environmental Quality Board shall hold a public meeting within 40 days after receipt of an application for a certificate of need or receipt of a transmission planning report seeking certification of a high voltage transmission line. At least twenty days prior to the meeting, the EQB shall mail notice of the meeting to those persons on the EQB list maintained pursuant to Minnesota Rules part 4400.1350 and to those persons on the general service list maintained by the Public Utilities Commission under Minnesota Rules part 7829.0600. The EQB shall also publish notice of the meeting in the *EQB Monitor* and by posting the notice on the EQB Web page. The public meeting must be held in a location that is convenient for persons who live near a proposed project.

Subp. 2. **Conduct of public meeting.** The EQB shall make available at the public meeting a copy of the certificate of need application or transmission planning report. The EQB staff shall explain the process for preparation of the environmental assessment. At the public meeting, the public must be afforded an opportunity to ask questions and present comments and to suggest alternatives and possible impacts to be evaluated in the environmental assessment. The EQB shall keep an audio recording of

the meeting. The EQB shall provide at least ten days from the day of the public meeting for the public to submit written comments regarding the proposed project.

Subp. 3. **Applicant role.** The applicant shall provide representatives at the public meeting to respond to questions about the proposed project.

Subp. 4. **Alternatives and impacts.** Any person desiring that a particular alternative to the proposed project or a possible adverse impact of the project be considered in the environmental assessment shall identify the alternative or impact to be included, shall provide an explanation of why the alternative or impact should be included in the environmental assessment, and shall submit all supporting information the person wants the chair to consider. The chair shall provide the applicant with an opportunity to respond to each request that is filed. The chair shall include the alternative or impact in the environmental assessment only if the chair determines that such evaluation will assist the PUC in its decision on the certificate of need application or HVTL certification request. The chair shall include in the environmental assessment any alternative or impact identified by the PUC for inclusion.

Subp. 5. **Chair decision.** Within ten days after close of the public comment period, the chair shall issue an order determining the following:

- A. the alternatives to be addressed in the environmental assessment;
- B. the specific potential impacts to be addressed;
- C. the schedule for completion of the environmental assessment; and
- D. other matters to be included in the environmental assessment.

Once the chair has issued an order regarding the environmental assessment, the matters to be evaluated in the environmental assessment shall not be changed except upon a decision by the chair that substantial changes have been made in the project or substantial new information has arisen significantly affecting the potential environmental effects of the project or the availability of reasonable alternatives. The chair may elect to bring to the EQB Board any decisions regarding what should be included in the environmental assessment. In such event, the chair shall bring the matter to the Board at the next regularly scheduled meeting or at a special meeting.

Subp. 6. **Notice of decision.** At the time of the chair decision, the EQB shall mail the order to those persons who have requested to be notified.

Subp. 7. **Time frame for completion of environmental assessment.** The EQB shall complete the environmental assessment in accordance with the schedule determined by the chair. In establishing the schedule for completion of the environmental assessment, the chair shall take into account any applicable statutory deadlines, the number and complexity of the alternatives and impacts to be addressed, and the interests

of the public, the applicant, the PUC, and the EQB. The EQB shall complete the environmental assessment on any high voltage transmission line for which certification is sought as part of a transmission planning report submitted to the PUC pursuant to Minnesota Statutes § 216B.2425 within four months of submission of the report.

Subp.8. **Notification of availability of environmental assessment.** Upon completion of the environmental assessment, the EQB shall publish notice in the EQB Monitor of the availability of the environmental assessment and mail notice of the availability of the document to those persons who have asked to be notified. The EQB shall provide a copy of the document to the PUC and to any other public agency with authority to permit or approve the proposed project. The EQB shall post the environmental assessment on the agency's Web page, if possible.

4410.7635. CONTENT OF ENVIRONMENTAL ASSESSMENT

Subpart 1. Content of environmental assessment. The environmental assessment must include:

- A. a general description of the proposed project.
- B. a list of alternatives to the proposed project that are addressed. Alternatives shall include the no-build alternative, conservation, conservation, purchases power, facilities of a different size or using a different energy source than the source proposed by the applicant, generation rather than transmission if a high voltage transmission line is proposed, transmission rather than generation if a large electric power generating plant is proposed, and those alternatives identified by the chair.
- C. a discussion of the generic impacts of a project of the type proposed and of the alternatives identified.
- D. a general discussion of the potential impacts that are project specific.
- E. a general discussion of mitigative measures that could reasonably be implemented to eliminate or minimize any adverse impacts identified for the proposed project and each alternative analyzed.
- F. an analysis of the feasibility of each alternative considered.
- G. a list of permits required for the project, and
- H. a discussion of other matters identified by the chair.

Subp. 2. Generic impacts of power plants. At a minimum, the EQB shall address in the environmental assessment the following impacts and matters associated with a proposed large electric power generating plant:

A. The anticipated emissions of the following pollutants and the calculations performed to determine the emissions at the maximum rated capacity of the project: sulfur dioxide, nitrogen oxides, carbon dioxide, mercury, and particulate matter.

B. The anticipated contribution of the project to the formation of fine particulate matter under 2.5 microns in length.

C. The anticipated emissions of any hazardous air pollutants or volatile organic compounds.

D. The anticipated contribution of the project to impairment of visibility within a fifty mile radius of the plant.

E. The anticipated contribution of the project to the formation of ozone.

F. The availability of the source of fuel for the project, the amount required annually, and the method of transportation to get the fuel to the plant.

G. Associated facilities required to transmit the electricity to customers.

H. The anticipated amount of water that will be appropriated to operate the plant.

I. The potential wastewater streams and the types of discharges associated with such a project including potential impacts of a thermal discharge.

J. The types and amounts of solid and hazardous wastes generated by such a project, including an analysis of what contaminants may be found in the ash and where such ash might be sent for disposal or reuse.

K. The anticipated noise impacts of such a project, including the distance to the closest receptor where state noise standards can still be met.

Subp. 3. Generic impacts of high voltage transmission lines. At a minimum, the EQB shall address in the environmental assessment the following impacts and matters associated with a high voltage transmission line:

A. The typical right-of-way required for construction of such a transmission line.

B. The anticipated size and type of structures required for such a line.

C. The electric and magnetic fields usually associated with such a line.

Subp. 4. Incorporation of information. In preparing an environmental assessment, the EQB may incorporate information and data from environmental

assessments prepared on earlier projects and from other more generic reports if the information or data is pertinent to the analysis.

4410.7640. AGENCY ASSISTANCE

The Environmental Quality Board may request another state agency to assist in the preparation of an environmental assessment. Upon request, another state agency shall provide in a timely manner any unprivileged data or information to which it has reasonable access concerning the matters to be addressed in the environmental assessment and shall assist in the preparation of the environmental assessment when the agency has special expertise or access to information.

4410.7650. APPLICANT ASSISTANCE

The Environmental Quality Board may request the applicant for a certificate of need or for certification of a HVTL to assist in the preparation of an environmental assessment. Upon request, the applicant shall provide in a timely manner any unprivileged data or information to which it has reasonable access and which will aid in the expeditious completion of the environmental assessment.

4410.7660. ENVIRONMENTAL ASSESSMENT TO ACCOMPANY PROJECT

Subpart 1. PUC Decision. The Public Utilities Commission shall not make a decision on a certificate of need or a HVTL certification request until the EQB has completed the environmental assessment and provided a copy to the Commission. The environmental assessment shall be considered by the PUC in making a final decision on a certificate of need or HVTL certification request. The environmental assessment shall be considered by state and local agencies with authority to review and authorize a LEPGP or HVTL.

Subp. 2. Completeness of environmental assessment. At the time the PUC makes a final decision on a certificate of need application or a request for certification of a HVTL, the PUC shall determine whether the environmental assessment and the record created in the matter address the issues identified by the chair in the decision made pursuant to part 4410.7630, subpart 5. The PUC may direct the EQB to prepare a supplement to the environmental assessment if the PUC determines that an additional alternative or impact should be addressed or supplemental information should be provided.

Subp. 3. PUC hearing. If the Public Utilities Commission is required to hold or decides to hold a contested case hearing on a certificate of need or HVTL certification request, the PUC shall not commence the public hearing until after the environmental assessment has been delivered to the PUC. The PUC may request the assignment of an administrative law judge prior to completion of the environmental assessment, and the judge may perform preliminary tasks including scheduling the public hearing prior to the time the environmental assessment is available. The EQB staff shall be available at the

hearing on the project to answer questions about the environmental assessment and to respond to comments about the document.

4410.7670. ALTERNATIVE REVIEW

Subpart 1. **Alternative form of review.** The requirements under parts 4410.7600 to 4410.7690 for preparation of an environmental assessment on a LEPGP or HVTL for which a determination of need by the Public Utilities Commission has been requested is approved as an alternative form or review. An environmental assessment is the only state environmental review document required to be prepared on a LEPGP or HVTL at the time a decision regarding need is sought from the Public Utilities Commission. No environmental assessment worksheet or environmental impact statement or other environmental report shall be required as part of the need process.

Subp. 2. **Review during permitting process.** Environmental review at the permitting stage before the Environmental Quality Board on a project for which a certificate of need from the PUC is sought or for which certification of a HVTL under the transmission planning process is requested from the PUC shall be conducted in accordance with Minnesota Rules chapter 4400. The EQB shall incorporate into the review conducted under chapter 4400 any information or data from the environmental assessment prepared under these rules that is appropriate.

4410.7680. COSTS OF PREPARATION OF ENVIRONMENTAL ASSESSMENT.

Subpart 1. **Applicant required to pay costs.** The applicant for a certificate of need for a large electric power generating plant or a high voltage transmission line shall pay the Environmental Quality Board the reasonable costs incurred by the EQB in preparing the environmental assessment.

Subp. 2. **Payment schedule.** The applicant shall submit a minimum payment of \$5000 to the EQB at the time the application or request is filed with the Public Utilities Commission. Additional payments shall be made within thirty days of notification by the agency that additional fees are necessary for completion of the environmental review. After preparation of the environmental assessment, the EQB shall provide the applicant with a final accounting. The applicant shall make the final payment within thirty days of notification, or the agency shall refund any excess payments within thirty days of the final accounting.

4410.7690. EMERGENCY PERMITS

The provisions of parts 4410.7600 to 4410.7680 shall not apply to emergency situations and applications for emergency permits shall be considered under the requirements of Minnesota Rules part 4400.4050.

REPEALER. Minnesota Rules parts 4410.7000, 4410.7100, 4410.7200, 4410.7300, 4410.7400, and 4410.7500 are repealed.